THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION NO. 26264 OF 2006

DATED: 15-11-2007

Between:

Sardar Ravinder Singh,
S/o. Sardar Deva Singh

… Petitioner

And

Authorised Officer, HUDA (Estate Officer)
Secunderabad and another

… Respondents

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ORDER:

In this writ petition, petitioner seeks a direction by way of Mandamus directing the respondents to register and deliver the rectified sale deed in respect of Plot No. 231 in HIG category admeasuring 315 sq. meters of Miyapur village covered by Sy.No.20 & 28/1 of Miyapur Residential Complex.

The Hyderabad Urban Development Authority (HUDA), a body constituted under the provisions of A.P. Urban Area Development Act, 1975 has prepared a layout for residential plots in Survey Nos.20 and 28/1 of Miyapur village. One such plot in the said lay out bearing No. 231 admeasuring 315 square meters was sold to the petitioner by the HUDA vide sale deed dated 24-1-1997 bearing document No.550/97. In the said sale deed, the schedule property was described as follows:

> Plot No.231 in Category HIG of the Miyapur Residential Complex (Survey No.20 and 28/1 of Miyapur Village Serilingampally Mandal, Ranga Reddy District) under registration with the Sub-Registrar, Serilingampally Municipality, Mehdipatnam, admeasuring 315.00 square

meters(376.74 sq.yards) and bounded by:

East : 9.00 WIDE ROAD
WEST : HUDA BOUNDARY
NORTH : 9.00 WIDE ROAD
SOUTH : plot No.232 H.I.G.

But, however, subsequently HUDA has submitted a rectification deed to the sub-registrar on 15-02-1997 along with a letter stating that plot bearing No.231 in HIG category of Miyapur residential complex was allotted to the petitioner and the same was handed over physically and the sale deed was executed by registered document No.550/97. It is stated that while mentioning the boundaries, an error has crept in and the rectification deed was presented by mentioning the boundaries as follows:

Boundaries as per regd.deed	Actual boundaries as per layout
North: 9.00 M. wide road	North: 9.00 M, wide road
East : 9.00 M. wide road	East: Plot No.232 HIG
South: Plot No.232 HIG	South: HUDA Boundary
West: HUDA Boundary	West: 9.00 M. wide road

But, however, plot number and extent of the land remain same. After presentation of the rectification deed also, it appears, several times the HUDA has addressed to the District Registrar for registration of such document. But, however, the rectified sale deed is not registered and released.

The petitioner, who is the purchaser under the above said sale deed has filed this writ petition stating that the respondents are not considering for registration only on the ground that in view of the change of boundaries, it is to be treated as fresh document and proper stamp duty has not been paid treating the said document as a fresh sale deed.

It is the case of the petitioner that inasmuch as the identity of the property is not in dispute and in view of the mistake crept in while mentioning the boundaries, a rectified sale deed was presented. As

such, there are no valid reasons for not considering the same for registration.

A counter affidavit has been filed by the second respondent-District Registrar. Mainly, it is the defence of the respondents that inasmuch as the rectification deed was presented with change of boundaries, it will change the nature of the schedule land and create a new interest in the land. As such, it cannot be treated as a rectification deed, but it has to be treated as a fresh sale deed only. A reference is made to Sec.2 sub-sec.14 of the Indian Stamp Act.

In view of the defence put forth by the respondents, the only question, which arises for consideration is whether the document subsequently presented with regard to the same property covering the same extent with different boundaries can be considered as a rectified sale deed or a fresh sale deed for the purpose of stamp duty and registration. Even from the counter-affidavit filed on behalf of the respondents also, it is not in dispute that the property, which was sold to the petitioner by the first respondent-HUDA was

a house site admeasuring 315 sq. meters covered by plot No.231 of Miyapur village, Sy.No.20 & 28/1 of the Miyapur Residential Complex under a registered sale deed dated 24-1-1997 bearing document No.550/97 and inasmuch as the identity of the property is not in dispute, merely because the rectified sale deed is presented with regard to very same property covered by the original sale deed, it cannot be said that by the said instrument alone, any right or liability is created, transferred, extended or extinguished so as to treat it as a separate instrument within the meaning of Sec.2 sub-section 14 of the Indian Stamp Act for the purpose of charging the stamp duty and registration treating the said document as a fresh sale deed. Even in the letter addressed by HUDA also, it is made clear that there was a mistake in mentioning the boundaries, which necessitated for executing the rectification deed.

In that view of the matter, there appears no valid reason at all for

not considering the said document for registration by treating the said document as a rectification deed.

For the above said reasons, this writ petition is disposed of directing the respondents to consider the rectified sale deed presented by the first respondent authorized officer of Hyderabad Urban Development Authority on 15-02-1997 as a rectification deed and consider the same for registration and release the said document within a period of two months from the date of receipt of a copy of this order, provided such document is otherwise in order.

Subject to the above direction, writ petition is disposed of. No order as to costs.

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R. SUBHASH REDDY, J.

Dt: 15-11-2007
Rns

THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

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Dated: 15-11-2007

RNS